1948 **File No.** O/IPA/48
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Legal Department

K G **BRANCH**

Subject:—

Opinion issued under Partner ship

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In his note dated 25-8-47 at pp.173-174, the Deputy P.T.C. has stated as follows:-

"All that seems necessary is to await the formal consent decree and on its receipt to delete the name of Madhavprasad from the licence which should be called for after the receipt of the consent decree. In view of this statement we need not insist on the immediate surrender of the licence as that would hamper business".

These papers are forwarded to this office for opinion whether this view is correct.

M/s. Rajaram Kaluram have stated that a consent decree was taken in the suit on 9-7-47 but it is not yet drawn up. They have therefore forwarded a copy of the consent terms filed in the court. From a perusal of these terms it appears that the plaintiff viz Madhavprasad and the 2 defendents viz Kaluram Rajaram and his son have agreed that the firm M/s. Rajaram Kaluram stands dissolved from 27-1-47 & from that date Madhavprasad has ceased to be a partner of the said firm. The firm held two licences A & D. As regards the D class licence there should be no dispute as under condition 2 the goodwill of the firm absolutely belongs to defendents Nos. 1 & 2 and that licence may therefore be reissued in the name of the firm as reconstituted.

As regards the A licence i.e. for doing quota holders' business, terms 7 & 8 of the consent terms may be seen. Madhavprasad has agreed to the licensing authority viz the P.T.C. continuing the old licensees and their share of the quota to the defendents and they in turn have consented to Madhavprasad's applying for separate licence and share of quota, the defendents have agreed to give him 1/4th share in the mills quota. If T.C. agrees to this arrangement and divides the quota then it seems a separate A class licence wi have to till Madhavprasad obtains licence for mill's quota,

begiven to him. As the firm stands dissolved, instead of continuing old licences with deletion of Madhavprasad's name, new licences without charging fresh fees may be issued to Kaluram and his son. All this should however be done after receipt of a certified copy of the consent decree.

P.M.L./9.1.

Remembrancer of Legal Affairs.

U.R. to C.S.D. No.375 dated 12th Jan. 48.

S.I./12.7.56. 4c.

There is no objection to delete the name of Bhogilal from the licence after obtaining an indemnity bond from Ambalal Atmaram who claims to be the sole proprietor.

I do not think any prosecution under section 182 I.P.C. would lie against Ambalal Atmaram for supplying incorrect information in his application for a 'C' class licence. The issue of the 'C' class licence was obviously not dependent upon the existence of a partnership between Ambalal and Bhogilal. It cannot therefore be said that the false information was supplied with the intention or knowledge to cause P.T.C. to do or omit to do anything which he ought not to have done oromitted if the true state of facts were known to him, or to use his lawful power to the injury or annoyance of any person. The essential ingredients of section 182 I.P.C. are absent in this case.

At the most the P.T.C. can take departmental action under clause 21 of the B.C.C.T.R.O. against Ambalal by suspending or cancelling his licence.

P.M.L./9.1.

Remembrancer of Legal Affair

U.R. to C.S.D. No.376, dated 12th Jan. 1948.

S.I./12.7.56. 4c.